

**Remarks**

Reconsideration and allowance of the subject patent application are respectfully requested.

Applicants respectfully request that the Examiner check the box in Section 12 of the Office Action summary sheet to indicate that all certified copies of the priority documents have been received. These priority documents were filed on July 10, 2001 as evidenced by a copy of a postcard receipt enclosed herewith.

As requested, a new title of the application has been provided.

As further requested, a replacement abstract is provided in the Appendix of this paper.

Amendments of a formal nature have been made to several original claims. These amendments are not made for reasons relating to patentability.

Claims 1, 3, 9 and 10 were rejected under 35 U.S.C. Section 102(b) as allegedly being "anticipated" by Hashimoto *et al.* (U.S. Patent No. 5,802,271). Applicants traverse this rejection. With respect to claim 1, Hashimoto *et al.* does not relate to the fetching of data from a server by a communication apparatus. Indeed, Hashimoto *et al.* describes the opposite situation -- namely, the sending of data from a communication apparatus (terminal device) to a server (remote management apparatus). *See, e.g.*, col. 5, lines 11-13 ("The data transmitting section 33 [of the terminal device 3] transmits the data in the data storing section 32 to the remote management apparatus 4."); col. 6, lines 8-12 ("If the line is connected, a predetermined connection procedure is performed (Step S54), and then the management information stored in the data storing section 32 are transmitted to the remote management apparatus 4 (Step S55)."). Consequently, for at least these reasons, Hashimoto *et al.* cannot anticipate the subject matter of claim 1 or of its dependent claim 3. *See, e.g., Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) ("A claim is anticipated only if each and every element as set forth in the claim is found, expressly or inherently described, in a single prior art reference.")

With respect to claim 9, the terminal device 3 of Hashimoto *et al.* measures a re-dial waiting period if it cannot connect to remote management system 4. *See* col. 6, line 17 *et seq.* However, there is no disclosure in Hashimoto *et al.* that this re-dial waiting period is, or should be, in any way set in dependence on whether the calling destination is a server or not as specified in claim 9. The office action references col. 8, line 59 to col. 9, line 23 of Hashimoto in connection with the "setting means" feature of claim 9. However, this portion of Hashimoto only discloses, for example, that "[t]he redial waiting period can be variously set for each terminal device which should transmit data in the current time interval, and alternatively can be commonly set." Hashimoto, col. 8, lines 64-67. Here again, there is no disclosure that this re-dial waiting period is, or should be, in any way set in dependence on whether the calling destination is a server or not as specified in claim 9. Consequently, for at least these reasons, Hashimoto *et al.* cannot anticipate the subject matter of claim 9 or its dependent claim 10.

Claim 5 and 6 were rejected under 35 U.S.C. Section 102(e) as allegedly being "anticipated" by Regeleski *et al.* (U.S. Patent No. 6,738,772). Regeleski *et al.* relates to a system for controlling access to areas in one or more buildings. With respect to claim 5, Regeleski *et al.* does not disclose or suggest, among other things, the claimed setting means for determining an access time to a server. The office action makes reference to the disclosure at col. 6, line 43 to col. 7, line 19 of Regeleski *et al.* However, the only reference to access time is at col. 6, line 53-55 and this discussion apparently relates to times when a person with a particular badge may be granted access to a secure facility. This has nothing to do with when a server is accessed to fetch data. Consequently, Regeleski *et al.* cannot anticipate the subject matter of claim 5 or its dependent claim 6.

Claims 7 and 8 were rejected under 35 U.S.C. Section 102(e) as allegedly being "anticipated" by Ohzora *et al.* (U.S. Patent No. 5,940,865). Ohzora *et al.* relates to eliminating the dependence among slots used for different purposes. *See, e.g.,* Ohzora *et al.*, col. 3, lines 44-46. Ohzora *et al.* does not disclose the fetching of data from a server in the manner specified in claims 7 and 8. Ohzora *et al.* describes storing information to be supplied to users in a distributed manner in a plurality of different storage devices. The office action references col. 5, lines 11-26 in connection with the rejection of claims

7 and 8. This description relates to the allocation of slots to a user for accessing the various storage units. *See, e.g.*, col. 5, lines 17-23 (“On receiving an access demand from a user, the slot allocating means determines the read/write restriction placed on the user” and then “the slot allocating means 2 allocates to the user who made the access demand a slot which is not yet allocated to other users ...”) In other words, Ohzora *et al.* is concerned with the timing of sending the data in response to an access request, but does not relate to the timing of when the access request is made to the server as in claims 7 and 8. Consequently, Ohzora *et al.* cannot anticipate the subject matter of claim 7 or its dependent claim 8.

Claim 11 was rejected under 35 U.S.C. Section 102(e) as allegedly being anticipated by Mayton *et al.* (U.S. Patent No. 6,763,380). With respect to claim 11, Mayton *et al.* fails to disclose, among other things, the stopping of the repetition of the connecting request when the automatic receiving means is fetching the data. As described with reference to the non-limiting, illustrative example embodiments, this feature enables the automatic connection to be performed without interference from the recall feature. The portion of Mayton *et al.* referenced in the office action discloses terminating the re-execution of a protocol at an expiration time. *See* col. 8, line 15 *et seq.* (“An expiration time may also be included for terminating re-execution of the associated test protocol ...”) However, this terminating does not occur when an automatic receiving means is fetching data. Rather, the terminating is set so as to allow other apparatuses to access the network. Consequently, Mayton *et al.* cannot anticipate the subject matter of claim 11.

Claims 2 and 4 were rejected under 35 U.S.C. Section 103(a) as allegedly being "obvious" over Hashimoto *et al.* in view of Inohara *et al.* (U.S. Patent No. 6,256,747). First, Inohara *et al.* does not remedy the deficiencies of Hashimoto *et al.* in connection with claim 1. As such, even if the proposed combination were carried out, the subject matter of claims 2 and 4 (which each depends from claim 1) would not result. Second, the referenced portion of Inohara *et al.* describes the selecting of a time zone on the basis of when employees are not using a server. There is no disclosure of selecting and storing an "inhibit" time zone during which no access is made to a server. Rather, Inohara *et al.*

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describes selecting a time for accessing a server based on when the server is not otherwise being utilized. The portion of Inohara *et al.* referenced in the office action (*i.e.*, col. 19, line 1-36) relates to “anticipatory validation” and does not disclose the subject matter of claim 2. For this additional reason, the proposed combination of Hashimoto *et al.* and Inohara *et al.* would not result in the subject matter of claims 2 and 4.

New claims 12-30 have been added. The subject matter of these new claims is fully supported by the original disclosure and no new matter is added. These claims describe subject matter in connection with fetching data from a storage device or server which is not taught or suggested by the applied references and thus these claims are believed to be allowable.

Applicant submits that the pending claims are in condition for allowance, and action to that end is earnestly solicited.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

A handwritten signature in cursive script, appearing to read "Michael J. Shea", written over a horizontal line.

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**Amendment to the Title:**

Please change the title of the application to  
COMMUNICATION APPARATUS FOR FETCHING DATA FROM A STORAGE  
DEVICE